

Chairman James Henderson called the meeting to order at 6:36pm at the Harpswell Community TV Studio, and led in the Pledge of Allegiance. Henderson introduced the Board members present: Don Rogers, Howard Nannen, and John Papacosma, and associate members Robert White and Dorothy Carrier. Henderson appointed Dorothy Carrier to vote in place of absent member Linda Toothaker. Planner Jeremy Hatch and Planning Assistant Debora Levensailor were also present. The meeting was broadcast live on Harpswell Community TV, and taped. The agenda for the meeting was published in the "Times Record" on January 9, 2002. Henderson reviewed the procedure for the meeting.

Minutes of December 19, 2001 – After review by the Board, Papacosma stated, "I move that the minutes of December 19, 2001 be approved as presented." Rogers seconded. **Carried, 5-0.**

Kenneth and Helen Beebe, Reconstruction of a Non-Conforming Structure, Shoreland Residential, Tax Map 17-19, Basin Point Road, Harpswell – Henderson and the Board reviewed Planner Hatch's memo, dated January 14, 2002. Hatch referenced a letter, dated January 12, 2002, written by Roger and Nancy Tuit, neighbors of Mr. Beebe. The Tuits wrote that they have no objections to Beebe building the new shed "as long as the property lines are respected." They anticipate having a survey of their property done in February.

Mr. Beebe presented the application. He said the shed was built in 1982 and he wants to improve the looks of it. He said it is located on the property line and can be moved 25' from the line. Hatch said that Beebe needs to note the size of his property (20,000 square feet) on the site (plot) plan. Hatch said that, as proposed, the new shed will be the same size as the present one, and that the percentage of lot coverage will remain unchanged. The Beebe property contains a house, the shed, and one more building. White asked if the two Beebe lots should be combined to form one lot. Henderson said the ordinance requires that the lots be combined. Beebe said that as far as he was concerned, it was one lot. The Town tax records and map state that the property consists of two lots. Hatch read the Shoreland Zoning Ordinance (SZO), Section 10.5.4, and the Board reviewed the definition of a principal structure as contained in the Definitions Addendum. Hatch said that there is a principal structure and an accessory structure on Beebe's lot, therefore the lots must be combined. White requested that Beebe get a combined title for both lots, and then register it with the Cumberland County Registry of Deeds. Beebe said that he bought the lots in 1976 and 1992.

Henderson allowed Linda White Hall of Harpswell to address the Board. She wanted to know if the purpose of combining the lots is so that they cannot be sold separately. Nannen read the Beebe deeds and said the deeds say there are two lots. Nannen requested that Beebe bring in a new plot plan on which he has located the site of the proposed shed. Henderson suggested that Beebe meet with Hatch to review the new plot plan. Carrier stated, "I move that the Board table the Beebe application to the next Board meeting." Nannen seconded. **Carried, 5-0.**

Martin Atkins, Construction of a Septic System, Resource Protection/Commercial Fisheries I, Tax Map 50-5, Harpswell Islands Road (Rt. 24), Harpswell – Realtor Gerard Lamare, representative for Mr. Atkins presented the application. Hatch and the Board reviewed Hatch's January 14th memo and the application for completeness. Hatch referenced a letter, dated January 16, 2002, from Elizabeth Eastman, a neighbor of Atkins, in which she stated that she will sell Mr. Atkins a 30' strip of land next to his northern boundary (for a driveway). Hatch said Atkins has placed the setbacks and the shoreland zone on the plot plan. He said that the lot coverage percentage has not been given, but that it would not change

much with this proposal. Hatch said CEO Mayo has visited the site and he agrees with the septic system design letter from George Patten, dated January 15, 2002.

Lamare said Atkins found a site on the lot on which to locate a system for a two bedroom cottage, and that it is in the Resource Protection (RP) zone. He said there is a septic tank on the property now, and he needs to put a leach field in. This is a seasonal cottage. Atkins had a survey done today. Hatch said the majority of the lot is in the RP zone, and that he had spoken with CEO Mayo, who said the soils are poor, and the septic system and leach field are limited to the designated area. The Board reviewed the Shoreland Ordinance Section 13.1.2 (Special Exceptions) and Table 1.21 (Septic Disposal).

Hatch said the house is outside the RP zone. Henderson said that there did not seem to be another suitable location for the leach field. Lamare said the Atkins property does not contain a well, that water is trucked in, and they need a place for the water to go. Lamare said the lot and 30' piece of land being purchased from Elizabeth Eastman will be combined into one lot/one deed. After additional discussion by the Board, Nannen stated, "I move that the Board approves the Atkins application with the condition of the acquisition of the land referenced in the letter of January 16, 2002, signed by Elizabeth Eastman." Rogers seconded. **Carried, 5-0.** William French of Harpswell wanted to know if the condition would be written into the deed. Henderson said the Board is authorizing the septic in connection with the house, and told Atkins to check with the Codes Enforcement Office before doing any expansions. Nannen said the notice of decision is Mr. Atkins's protection.

Larry Crooker, Estes Lobster House, Inc., Site Plan Review (Change of Use), Shoreland Business, Tax Map 18-108, Harpswell Neck Road, Harpswell – The Board and Hatch reviewed Hatch's January 14th memo. Hatch said there were incomplete items in the application, including the following: (1) The Board has not received a letter from the Harpswell Historical Society. (2) The Board has not received a letter of financial capacity. (3) Fire protection management needs to be addressed. Hatch said he had spoken with the State Fire Marshall's Office and they do not have an application from Estes Lobster House. (4) The Board has not received a traffic flow study. (5) The Department of Human Services needs to approve this permit (for hotel use). (6) The Board has not received a septic study for the proposal to move the two buildings off of the present system. (7) The Board needs to request that an independent professional water and septic review be done for this proposal. Hatch said the National Wetlands Inventory has not identified any wetlands or streams in this area.

Christopher Belanger of Sitelines P.A, representative for Larry Crooker, presented the application. The Board and Belanger reviewed the application and the site (plot) plan. Belanger said Crooker would like to have approval for a change of use to renovate the restaurant and to install fourteen motel units. He said there would be no new additions to the building, that they would only renovate the structure. Crooker is proposing to reduce the restaurant services. Belanger said the well now serves the restaurant and the house, and that it is located under a man hole. He said there are no water problems, and there are two 1,500 gallon holding tanks for backup. He said they will not increase the impervious surface, but will pave the parking area across the road from the restaurant, unless the Board does not approve of the paving. Belanger said they will move some gravel and do landscaping to beautify the area. He reviewed the storm water management, and **Henderson requested a new site plan which denotes the storm water management.**

Belanger said the restaurant has three hundred to four hundred seats, but is only permitted by the Department of Human Services for one hundred fifty seats. He said Crooker knows that he is not in compliance now, and he will scale down to one hundred fifty seats as required by the Maine plumbing laws. He will also scale down from thirty to six employees to accommodate the new style of the restaurant where people will pick up their food themselves and sit down, or take it out. There will be ten motel units upstairs and four downstairs. A second stairway will be installed on the south side of the building. Belanger said the State Fire Marshall's Office requires access on three sides of the building, which there is now. He said Crooker will be responsible to get a permit, and will have two exits, a sprinkler system, and a fire alarm. Henderson told Belanger that the applicant must construct according to the requirements of the State Fire Marshall's Office before occupying the building. Belanger agreed with Henderson. Henderson said that Fire Chief Nelson Barter is requiring access to the back of the building, and Belanger said Crooker would take the patio off if necessary.

White said there is a wetland on the east edge of the property, near Graveyard Point. Belanger referenced Codes Enforcement Officer Roland Mayo's letter, received by the Planning Office on January 15, 2002, in which Mayo expressed many concerns regarding the application, seating capacity, calculations used to determine the GPD, etc. Belanger said they would "do what it takes" to comply. White said the Town will hire an expert to perform a water and septic study, with the applicant paying for the study. White asked what the size of the motel units would be, and Belanger said Crooker had not had sketches done, but there would be one bed and one bath per unit. **Henderson requested a sketch of the rooms.**

Nannen asked about the septic design and Belanger said a 1,400 gallon per day (GPD) system is required for the motel, and a 2 GPD per seat per day for the new restaurant. White expressed concerns about the water quantity. Nannen suggested reviewing the application for water usage and wastewater requirements. The Board reviewed the water flow reports submitted in the application. Nannen said **the Board needs to require well information regarding quantity, capacity, recharge rate, depth, bore, etc.** He stated, "This is a public use."

Henderson asked for public comment. Linda White Hall of Harpswell said Belanger is proposing a reduction in the use of water because of paper service, but that he has paper service now. She expressed concern that a lot has gone on over the years without permits. She wanted to know if the second floor seats had been approved. Hatch said that in 1989 the Board of Appeals had approved the use of the second floor for a gift shop and storage only. Hatch said the applicant does have the right to apply for a change of use, and if the change of use is granted, the Codes Enforcement Officers must determine if it is up to code. White said the Board has the responsibility not to change it to a more intense use. Linda White Hall referenced the report done by Sitalines and said the report contains two conflicting sets of GPD figures. Belanger said that clearly a peer review needs to be done. Hall said Crooker is adding 1,400 GPD of water usage. Belanger said the impervious surface of the lot on which the restaurant is situated is 70.1%, and it is 64.5% for the lot on which two story structure is situated.

Carrie Ann Poirier of Harpswell said the sign says that Crooker rents rooms in the two story house, and wanted to know if the water usage calculations for this structure were included in the application. She wanted to know how much water he is going to use, and if he will rent out more than three rooms in the house. Hatch said the application says it is a single family unit with three bedrooms, **and said that he will address the issue.** White wanted to know which permits had been issued, and said a deeper use should conform to the permits given. **Selectman George Swallow wanted to know if the 1 to 2 gallons**

per seat took into account the type of food being served. He said lobsters need a lot more water, and the Town has had problems already with extremely wet garbage coming into the Recycling Center from Estes Lobster House. **He said that when the water and septic study is done, the type of food needs to be taken into account.**

Hatch read a portion of the aforementioned letter from Codes Enforcement Officer Roland Mayo, received on January 15, 2002, and he said the use must be in conformity with the Maine wastewater rules. Winn Gillis of Pott's Point in Harpswell said he and his wife are walkers and many other people come to Estes and park and walk. He is very concerned about the potential traffic increase created by the addition of the motel. He said it is a tight corner, and they would like to keep on walking safely. Henderson said the Site Plan Ordinance addresses the issues of sight distance and pedestrian traffic. White said that cars park at the end of the restaurant now, and stick out into the road. **Henderson requested that the parking be on the site (plot) plan.** Hatch read the Site Plan Ordinance, Section 15.3.1 (vehicular access). Diana Estes of Pott's Point said her concern is the water, that when there are tourists at the motel, they will not conserve water or think about how much is being used. Karen O'Connell of Pott's Point said Estes was permitted for 150 seats, and then Crooker expanded the numbers of seats without a permit. She said that at times, she has smelled a foul odor while walking by the property. She said the proposal is an expansion of use, not a change of use because there will be rooms in addition to the restaurant. She said there will be a significant drain on the aquifer, and there will be more than one person in each room, possibly taking several showers each day. She said the current septic system is a marsh, and that after it rains, there is runoff into the ocean. She said she is very worried by what Crooker is doing, that it could become a danger to the environment.

Wayne Hurst of Pott's Point said he saw a yellow machine digging a trench from the swamp to the ocean (in the area of the parking lot). He said the clam flats have been closed in this area and wanted to know why, perhaps because of polluted clams. He said there is a strong stench in this area, and wanted to know where the leach field is. Belanger said the leach field is in the grassy field next to the swamp. Leonis Donovan of Pott's Point wanted to know where the proposed new septic system will be located. She asked if Estes could have the proposed septic system under a paved parking area. Henderson said the community needs to know where the septic is. He said the **Board needs to decide if this proposal is an expansion or a change of use. He also requested information for the Board concerning the actual amount of water usage necessary, the flow rate, and more information on the wastewater management, in addition to reports from the Department of Human Services and the Department of Transportation.** Henderson read the ordinance definition of expansion. Karen O'Connell again asked how it could be considered a change of use when Crooker is proposing to keep the permitted 150 seats and add a motel.

Sam York, a direct abutter to the Estes Lobster House property, had the following concerns: (1) He said in the summer he only has ten feet of water in his well, and the well driller had told him not to have another well dug because there would probably be saltwater intrusion. York said they do not know where the aquifer is, and he objects to any increase in water usage. (2) He wants to know who is calibrating the meter for accuracy. (3) He said the report in the application says there will be water usage of 1 to 2 gallons per day per seat by the short order restaurant, but said he knows there will be more than that. He says the engineer's specs say 7 to 10 gallons. (4) He said the waste disposal calculations on the report in the application are based on there being three bedrooms in the house, and not rooms for rent. (5) He said fill has been put in on the Crooker property. York said that the soil on his own property is sandy, then

eight inches of clay, and he is limited to what he can put in for a septic system. He questions the validity of the report. (6) York said the design capacity of Crooker's system allows for less than a 2% margin of error. (7) York said he is concerned with the numerous violations at Estes. (8) He said the cottage is a dormitory, and there were more staff sleeping there than capacity restrictions allow. (9) He said it is clear to him that a trench was dug to drain the wetlands. (10) York said the proposal is an expansion, not a change of use. **Henderson asked how the Town intends to enforce this, and asked that the Town address the issue.**

Anna Salom, of Pott's Point said she is worried about the well and septic usage. She said the marsh lies between Crooker's parking lot and her property. She said that as soon as Crooker expanded, he drained the marsh, and now the leach field drains out onto the beach. She said ducks have left the marsh, and stated, "Something precious about Harpswell is disappearing!" Henderson said that hopefully Codes will enforce that issue. Selectman George Swallow requested a list of alleged violations.

The Board scheduled a site visit to the Estes Lobster House for January 26, 2002 at 9am. Carrier stated, "I move that the Board table this application to the next regular meeting, and to direct the Planner to coordinate with the Codes Office and contract with an appropriate expert who will address, and give a report on the water quality and quantity, and to determine any issues regarding the quantity of sewage generated and compare it with the current amount of sewage generated, and any associated traffic issues, and the impact on the wetlands, and other issues the Planning Office and the Codes Office deem to be appropriate." Nannen seconded. **Carried, 5-0.** The Board agreed that the applicant will pay for the reports. **Nannen asked that the developer be specific with the landscaping plans. Henderson told Belanger to read the Site Plan Ordinance carefully. Belanger asked Henderson if Crooker is to hire a traffic consultant and Henderson told him yes.**

Murray and Karen Washburn, Reconstruction of a Non-Conforming Structure, Commercial Fisheries I, Tax Map 25-57, Garrison Cove Road, Harpswell – The Board reviewed Hatch's January 14, 2002 memo, and the application for completeness. Hatch said the contour lines requirement can be waived by the Board, and the lot coverage percentage is not given in the application. Hatch said the replacement of a structure along with adding a foundation increases the volume, and this must conform with the ordinance. This is a matter of compliance.

Bruce Leland of Long Cove Builders, representative for the Washburns, presented the application. Leland said the applicant wants to be as gentle as possible, and will replace the structure as it is basically designed. The footprint will increase by approximately two feet. There will be more conforming setbacks on the south property line. The applicants are requesting an 8' X 8' section for the utilities, but if the Board does not approve of this, they will put the utilities on the first floor. Leland said there is ledge where the foundation would be placed. White requested the dimensions of the footprint, and the volumes and dimensions of the first and second floors of the structure. Leland said there is a land use permit in the Codes Office. Henderson wanted to know how the Board could approve what they do not know (dimensions, etc.). **The Board is requesting a copy of the land use permit application.**

The Board reviewed the application and the Shoreland Zoning Ordinance, Section 10.3.1.2. Hatch reminded the Board that the construction of a foundation below a non-conforming structure is considered an expansion in the ordinance. He said, according to the ordinance, the Planning Board could not increase the full basement and the reconstructed structure. Hatch said the Washburns propose to totally tear the

building down. The Board and Hatch reviewed the plot plan and the setbacks from the high water mark. **Nannen and White requested that the applicant put the dimensions of the structure on the plan.** Carrier stated, "I move that we table this application to the next meeting." Rogers seconded. Carried, 5-0. Weston Murphy, an area landowner, asked if there would be any blasting done. Leland said there would be no blasting.

Other Business the Board May Wish to Consider – The Selectmen have ordered the Board to reconsider the parking plan of the Jeffrey and Peter Darling marina on Oakhurst Island. Selectman Swallow reminded the Board that a condition of their previous approval of the Darling site plan was that the parking was to conform to the requirements of the Harbor and Waterfront Ordinance. Swallow said the issue had gone before the Selectmen, and now needs to go back to the Board for an adequate consideration of the parking plan. The Darling issue will be placed on the Board's agenda for the February meeting.

Hatch said the Board needs to revisit the issue of the storage of the dock on the property of Richard Pfeffer on Ben Island. Hatch said Pfeffer is going to store the dock on a ledge, and this is a Codes technicality. Ben Wallace of Redfish Associates, Inc. is going to draw up a site plan and present it to the Board for approval. Henderson said there is nothing in the Board's by-laws regarding the reconsideration of an application. Nannen said that perhaps there could be an abbreviated submission of the proposal, including the addition. Henderson said that the Board should consider an amendment to their by-laws, and he will draft a proposed amendment regarding the issue and present it to the Board at least seven days prior to the February meeting.

Discussion of the Minimum Requirements for Applications Considered by the Planning Board – The Board and Hatch reviewed Hatch's recommendations for the minimum requirements. Hatch suggested that the applicant present a list of the requested waivers. Nannen requested the addition of lighting and landscape to the last section, under Site Plan (Section III).

Carrier made a motion to adjourn the meeting. Rogers seconded. **Carried, 5-0.** Henderson adjourned the meeting at 10:05 pm.

Debora A. Levensailor
Planning Assistant